

**FLIESLER
DUBB
MEYER &
LOVEJOY LLP**

FOUR EMBARCADERO CENTER, FOURTH FLOOR
SAN FRANCISCO, CALIFORNIA 94111-4156
TELEPHONE 415.362.3800
FACSIMILE 415.362.2928

TO: Charles Smoot Legal Office, USPTO
FAX NO.: (703) 308-6459
FROM: Sherri Hale for Thomas A. Ward, Esq. Reg No. 35,732
RE: Serial No. 10/016,549 Notice to File Missing Parts
DATE: November 26, 2002 Total Pages : 89

Original will follow by mail: Documents previously sent May 15, 2002

If you do not receive all of the pages, please call Sherri Hale at 415.362.3800.

Legal Office

Mr. Charles Smoot;

I spoke with USPTO employee Derek Putonen about our firm not receiving our Filing Receipt and he explained the situation to me. According to Derek I am to forward these documents that I previously sent on May 15, 2002 to you. According to Derek you will then forward these documents to an attorney who will then make a decision on this case.

Please call me if you have any questions.

Sherri Hale
Assistant to Thomas A. Ward

RECEIVED

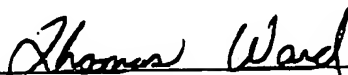
26 NOV 2002

USPTO
International Division

This facsimile is intended only for the addressee and those authorized by the addressee to receive it. Any use, dissemination, distribution or copying of this facsimile by any others is prohibited. Any others receiving this facsimile are requested to notify FLIESLER DUBB MEYER & LOVEJOY LLP immediately by telephone or fax and to return the original facsimile to FLIESLER DUBB MEYER & LOVEJOY LLP.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**In re Application****Inventor:** Michael John Lee**SC/Serial No.:** 10/016,549 10/018,549**Confirm. No.:** 1619**Filed:** December 14, 2001**Title:** APPARATUS FOR TESTING MOBILE PHONES**PATENT APPLICATION****Art Unit:****Examiner:****Customer No. 23910****CERTIFICATE OF FACSIMILE TRANSMISSION UNDER 37 C.F.R. § 1.8**

I hereby certify that this correspondence is being transmitted by facsimile to the Commissioner for Patents, the United States Patent and Trademark Office, Legal Office, Facsimile No. (703) 308-6459, on November 26, 2002.



(Attorney Signature)

Thomas A. Ward, Reg. 35,732

Signature Date: November 26, 2002**REQUEST TO ACCEPT LOST PAPER
CONTAINING CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(b)**

Commissioner of Patents
Washington, DC 20231

1. This is a request to accept a lost RESPONSE TO NOTICE TO FILE MISSING PARTS and accompanying documents listed below which were mailed with a Certificate of Mailing under 37 C.F.R. §1.8(b).
2. This Request is being filed in response to a telephone enquiry to the USPTO as to the status of our Filing Receipt. Through the telephone enquiry we found that the filing receipt had not been sent out because it appears that the USPTO misplaced our Response to Notice To File Missing Parts and the accompanying documents (that we filed on May 15, 2002).

Attached with this petition is a true and complete copy of the documents that were sent on May 15, 2002. Also attached is a copy of the return postcard with the USPTO stamped date indicating receipt May 20, 2002.

3. Enclosed herewith to comply with 37 C.F.R. §1.8(b) are:

- A. A copy of the RESPONSE NOTICE TO FILE MISSING PARTS containing the Certificate of Mailing dated May 15, 2002;
 - B. A copy of Notification of Missing Requirement Under 35 U.S.C. 371 In The United States Designated/Elected Office (DO/EO/US)
 - C. A copy of the original returned postcard with the U.S. Patent Office date stamp dated June 3, 2002;
 - D. A copy of the Declaration for Patent Application;
 - E. A copy of the Assignment and Assignment Recordation Form Cover Sheet;
 - F. A copy of the Information Disclosure Statement under 37 C.F.R. §1.56 and copy of references;
 - G. A copy of IPE Report;
 - H. A copy of International Application;
 - I. A copy of International Search Report and references; and
 - J. A copy of the check in the amount of \$170.00 submitted for the assignment and responding to Notice to File Missing Parts fees.
4. Applicant respectfully requests acceptance of the RESPONSE TO NOTICE TO FILE MISSING PARTS, and that a Filing Receipt for this case be issued.

Respectfully submitted,

Date: 11/26/02

By: Thomas Ward

Thomas A. Ward, Reg. 35,732

FLIESLER DUBB MEYER & LOVEJOY LLP
Four Embarcadero Center, Fourth Floor
San Francisco, California 94111-4156
Telephone: (415) 362-3800

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application

Inventor: Michael John Lee

SC/Serial No.:

~~10/016,549~~ 10/018,549

Filed:

December 14, 2001

PCT Application No.:

PCT/GB00/02267

Filed:

June 12, 2000

Conf. No.:

1619

Title:

APPARATUS FOR TESTING
MOBILE PHONESPATENT APPLICATIONCustomer No. 23910*Duplicate
papers*

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence is being deposited in the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Box Missing Parts, Commissioner for Patents, Washington, DC 20231, on May 15, 2002.

Thomas A. Ward (Attorney Signature)
Thomas A. Ward, Reg. 35,732
Signature Date: May 15, 2002

RESPONSE TO NOTICE TO FILE MISSING PARTS

Box Missing Parts
Commissioner for Patents
Washington, DC 20231

Sir:

In response to the Notice to File Missing Parts of Application -- Filing Date Granted, dated March 20, 2002, enclosed are the following documents in connection with the above-identified application:

- ✓ Copy of Notice to File Missing Parts -- Filing Date Granted
- ✓ Declaration for Patent Application
- ✓ Assignment and Assignment Recordation Form Cover Sheet
- ✓ Information Disclosure Statement under 37 C.F.R. §1.56 and copy of references.
- U.S. Basic National Fees

- ☒ Copy of IPE Report
☒ Copy of International Application
☒ Copy of International Search Report and references
☐ Preliminary Amendments

Total Fee

The Total Fee associated with this communication has been calculated as shown below:

<input type="checkbox"/>	Patent application filing fee	\$
<input type="checkbox"/>	Net fee for extension of time	\$
<input checked="" type="checkbox"/>	Assignment recording fee (\$40.00)	\$40.00
<input checked="" type="checkbox"/>	Surcharge under 37 C.F.R. §1.16(e) for late filing of filing fee or Declaration:	
<input checked="" type="checkbox"/>	Large Entity	\$130.00
<input type="checkbox"/>	Small Entity	\$ 65.00
TOTAL FEE DUE:		<u>\$170.00</u>

Method of Payment of Fees

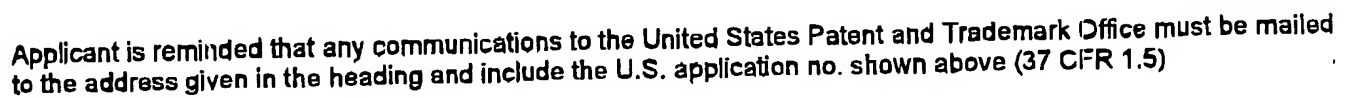
- ☒ A check in the amount of the TOTAL FEE DUE is enclosed.
- ☒ The Commissioner is hereby authorized to charge underpayment of any additional fees associated with this communication or credit any overpayment to Deposit Account No. 06-1325.

Respectfully submitted,

Date: 5/15/02

By: Thomas Ward
Thomas A. Ward, Reg. 35,732

FLIESLER DUBB MEYER & LOVEJOY LLP
Four Embarcadero Center, Fourth Floor
San Francisco, California 94111-4156
Telephone (415) 362-3800



A copy of this notice **MUST** be returned with the response

LAMONT M HUNTER

Telephone: (703) 305-3686

PART 1 - ATTORNEY/APPLICANT COPY

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/118,549	PCT/GB00/02267	ANRUK01000USO

FORM PCT/DO/EO/905 (371 Formalities Notice)

The U.S. Patent and Trademark Office date stamp and Serial No. (if a new application) sets forth the date of receipt of:

Applicant: Michael John Lee

Confirmation No.: 1619

SC/Serial No.: 10/018,549

Filing Date: December 14, 2001

Title: APPARATUS FOR TESTING MOBILE PHONES

Date Mailed: May 15, 2001 Date Due: May 20, 2002

Enclosed:

1. Copy of Notice to File Missing Parts;
2. Declaration for Patent Application;
3. Assignment and Assignment Recordation Form Cover Sheet;
4. Information Disclosure Statement and copy of references;
5. Copy of IPE Report;
6. Copy of International Application;
7. Copy of International Search Report and References;
8. Check in the amount of \$170.00;
9. Certificate of Mailing;
10. Return Postcard.

Att. File No.: ANRUK-01000US0 MCF/TAW
Attorney: Thomas A. Ward/sh

JC02 Rec'd PCT/PTO 20 MAY 2002

RECEIVED
JUN 03 2002
FLIESLER DUBB
MEYER & LOVEJOY

nailed
3-15-2002

Fliesler, Dubb, Meyer & Lovejoy
Att: ANRUK - 01000US0
Action Item: Action #1?
Date Due: February 14, 2003
Critical Date: February 14, 2003
Attorney Path: MCF/TAW
Created By: mj/sh
Reviewed By: cl/sh

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application

Inventor(s): Michael John Lee

SC/Serial No.: Unknown

Filed: Not Yet Assigned

PCT Application No.: PCT/GB00/02267

Filed: June 12, 2000

Title: APPARATUS FOR TESTING
MOBILE PHONES

PATENT APPLICATION

Art Unit: Unknown

Examiner: Unknown

Customer No. 23910

DECLARATION FOR PATENT APPLICATION

As a below named inventor, I hereby declare that my residence, mailing address and citizenship are as stated below next to my name. I believe that I am the original, first and sole inventor (if only my name is listed below) or the original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention identified by "Title" above and by the specification identified below (check applicable ones):

The specification:

_____ is attached hereto;
 _____ was filed with the above-identified "SC/Serial No." and "Filed" date (national or PCT
 _____ international);
 _____ was amended on (or through) _____.

I have reviewed and understand the contents of the above-identified specification including the claims and including any above-identified amendment(s).

I acknowledge a duty to disclose to the U.S. Patent and Trademark Office all information known to me to be material to patentability of the application as defined in Title 37, Code of Federal Regulations §1.56.

I hereby claim foreign priority benefits under 35 U.S.C. §119(a)-(d) or §365(b) of any foreign application(s) for patent or inventor's certificate, or §365(a) of any PCT international application which designated at least one country other than the United States, listed below and have also identified below any foreign application for patent or inventor's certificate, or PCT international application, filed by me or my assignee disclosing the subject matter claimed in this application and having a filing date (1) before that of the application on which priority is claimed, or (2) if no priority is claimed, before the filing date of this application:

Title 35, United States Code, §112 (first paragraph)

SECTION 112. SPECIFICATION

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or

with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Title 35, United States Code §119 (first paragraph)

BENEFIT OF EARLIER FILING DATE IN FOREIGN COUNTRY; RIGHT OF PRIORITY

(a) An application for patent for an invention filed in this country by any person who has, or whose legal representatives or assigns have, previously regularly filed an application for a patent for the same invention in a foreign country which affords similar privileges in the case of applications filed in the United States or to citizens of the United States, shall have the same effect as the same application would have if filed in this country on the date on which the application for patent for the same invention was first filed in such foreign country, if the application in this country is filed within twelve months from the earliest date on which such foreign application was filed; but no patent shall be granted on any application for patent for an invention which had been patented or described in a printed publication in any country more than one year before the date of the actual filing of the application in this country, or which had been in public use or on sale in this country more than one year prior to such filing.

(b) No application for patent shall be entitled to this right of priority unless a claim therefor and a certified copy of the original foreign application, specification, and drawings upon which it is based are filed in the Patent and Trademark Office before the patent is granted, or at such time during the pendency of the application as required by the Commissioner not earlier than six months after be made by the patent office of the foreign country in which filed and show the date of the application and of the filing of the specification and other papers. The Commissioner may require a translation of the papers filed if not in the English language and such other information as he deems necessary.

(c) In like manner and subject to the same conditions and requirements, the right provided in this section may be based upon a subsequent regularly filed application in the same foreign country instead of the first filed foreign application, provided that any foreign application filed prior to such subsequent application has been withdrawn, abandoned, or otherwise disposed of, without having been

laid open to public inspection and without leaving any rights outstanding, and has not served, nor thereafter shall serve, as a basis for claiming a right of priority.

(d) Applications for inventors' certificate filed in a foreign country in which applicants have a right to apply, at their discretion, either for a patent or for an inventor's certificate shall be treated in this country in the same manner and have the same effect for purpose of the right of priority under this section as applications for patents, subject to the same conditions and requirements of this section as apply to applications for patents, provided such applicants are entitled to the benefits of the Stockholm Revision of the Paris Convention at the same time of such filing.

(e)(1) An application for patent filed under section 111(a) or section 363 of this title for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in a provisional application filed under section 111(b) of this title, by an inventor or inventors named in the provisional application, shall have the same effect, as to such invention, as though filed on the date of the provisional application filed under section 111(b) of this title, if the application for patent filed under section 111(a) or section 363 of this title is filed not later than 12 months after the date on which the provisional application was filed and if it contains or is amended to contain a specific reference to the provisional application.

(2) A provisional application filed under section 111(b) of this title may not be relied upon in any proceeding in the Patent and Trademark Office unless the fee set forth in subparagraph (A) or (C) of section 41(a)(1) of this title has been paid and the provisional application was pending on the filing date of the application for patent under section 111(a) or section 363 of this title.

Title 37, Code of Federal Regulations, §1.56**SECTION 1.56. DUTY TO DISCLOSE INFORMATION MATERIAL TO PATENTABILITY***

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§1.97(b)-(d) and 1.98.* However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

(1) prior art cited in search reports of a foreign patent office in a counterpart application, and

(2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or

(2) It refutes, or is inconsistent with, a position the applicant takes in:

(i) Opposing an argument of unpatentability relied on by the Office; or

(ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

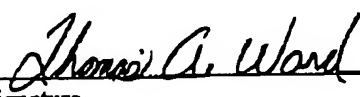
(1) Each inventor named in the application;

(2) Each attorney or agent who prepares or prosecutes the application; and

(3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

* §§1.97(b)-(d) and 1.98 relate to the timing and manner in which information is to be submitted to the Office.

RECORDATION FORM COVER SHEET PATENTS ONLY		U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office
Customer No. 23910		
To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.		
1. Name of conveying party: Michael John Lee Additional name(s) of conveying party(ies) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	2. Name and address of receiving party(ies): Name: <u>Anritsu Limited</u> Address: <u>Rutherford Close, Stevenage</u> <u>Hertfordshire, SG12EF, Great Britain</u> Additional name(s) & address(es) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
3. Nature of conveyance: <input checked="" type="checkbox"/> Assignment <input type="checkbox"/> Merger <input type="checkbox"/> Security Agreement <input type="checkbox"/> Change of Name <input type="checkbox"/> Other _____ Execution Date: <u>February 6, 2002</u>	4. Application number(s) or patent number(s): A. Patent Application No.: 10/016,549 B. Confirmation No.: 1619 Title: Filed Date: <u>December 14, 2001</u> Additional numbers attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If this document is being filed together with a new application, the execution date of the application is: _____	
5. Name and address of party to whom correspondence concerning document should be mailed: Name: <u>MARTIN C. FLIESLER</u> Address: <u>Fliesler Dubb Meyer & Lovejoy LLP</u> <u>Four Embarcadero Center, Fourth Floor</u> <u>San Francisco, CA 94111</u> Telephone: <u>(415) 362-3800</u>	6. Total Number of applications and patents involved: <u>1</u> X \$40.00 each 7. Total fee (37 CFR 3.41).....\$ <u>40.00</u> <input checked="" type="checkbox"/> Check Enclosed 8. Fee Authorization. Authorization is given to charge any additional fees or credit any overpayment to Deposit Account No. 06-1325. Copy. (A duplicate copy of this authorization is <u>not</u> enclosed.)	
9. Statement and signature. <i>To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.</i> <div style="display: flex; justify-content: space-between;"> <div style="width: 30%;"> <u>THOMAS A. WARD</u> Attorney (Reg. No.: <u>35,732</u>) </div> <div style="width: 30%; text-align: center;">  Signature </div> <div style="width: 30%; text-align: right;"> <u>5/15/02</u> Date </div> </div>		
10. Total number of pages to be recorded: <u> </u> (1 page cover sheet and <u> </u> page document).		

SOLE TO CORPORATE ASSIGNMENT

WHEREAS, the undersigned, Michael John Lee, a resident of Great Britain, (hereinafter termed "Inventor"), has invented certain new and useful improvements in:

APPARATUS FOR TESTING MOBILE PHONES

and has executed a declaration or oath for an application for a United States patent disclosing and identifying the invention.

WHEREAS Anritsu Limited (hereinafter termed "Assignee"), a corporation of the Country of Great Britain, having a place of business at Rutherford Close, Stevenage, Hertfordshire, SG12EF, Great Britain, wishes to acquire the entire right, title and interest in and to said application and the invention disclosed therein, and in and to all embodiments of the invention, heretofore conceived, made or discovered by said Inventor (all collectively hereinafter termed "said invention"), and in and to any and all patents, certificates of invention and other forms of protection thereon (hereinafter termed "patents") applied for or granted in the United States and/or other countries.

NOW THEREFORE, for good and valuable consideration acknowledged by said Inventor to have been received in full from said Assignee:

1. Said Inventor does hereby sell, assign, transfer and convey unto said Assignee, the entire right, title and interest (a) in and to said application and said invention; (b) in and to all rights to apply in any and all countries of the world for patents, certificates of inventions or other governmental grants on said invention, including the right to apply for patents pursuant to the International Convention for the Protection of Industrial Property or pursuant to any other convention, treaty, agreement or understanding; (c) in and to any and all applications filed and any and all patents, certificates of inventions or other governmental grants granted on said invention in the United States or any other country, including each and every application filed and each and every patent granted on any application which is a division, substitution, or continuation of any of said applications; (d) in and to each and every reissue or extension of any of said patents; and (e) in and to each and every patent claim resulting from a reexamination certificate for any and all of said patents.

2. Said Inventor hereby covenants and agrees to cooperate with said Assignee to enable said Assignee to enjoy to the fullest extent the right, title and interest herein conveyed in the United States and other countries. Such cooperation by said Inventor shall include prompt production of pertinent facts and documents, giving of testimony, executing of petitions, oaths, specifications, declarations or other papers, and other assistance all to the extent deemed necessary or desirable by said Assignee (a) for perfecting in said Assignee the right, title and interest herein conveyed; (b) for complying with any duty of disclosure; (c) for prosecuting any of said applications; (d) for filing and prosecuting substitute, divisional, continuing or additional applications covering said invention; (e) for filing and prosecuting applications for reissue of any of said patents; (f) for interference or other priority proceedings involving said invention; and (g) for legal proceedings involving said invention and any applications therefor and any patents granted thereon, including without limitation opposition proceedings, cancellation proceedings, priority contests, public use proceedings, reexamination proceedings, compulsory licensing proceedings, infringement actions and court actions; provided, however, that the expense incurred by said Inventor in providing such cooperation shall be paid for by said Assignee.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application

Inventor(s): Michael John Lee

SC/Serial No.:

~~10/016,549~~ 10/018,549

Filed:

December 14, 2001

PCT Application No.: PCT/GB00/02267

Filed:

June 12, 2000

Conf. No.:

1619

Title:

APPARATUS FOR TESTING
MOBILE PHONESPATENT APPLICATIONCustomer No. 23910

INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. §1.56

PCT Box

Commissioner for Patents

Washington, DC 20231

Sir:

It is requested that the information identified in this statement be considered by the Examiner and made of record in the above-identified application. This statement is not intended to represent that a search has been made or that the information cited in the statement is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56. If this is a continuation, divisional or continuation-in-part application, it is understood that the Examiner will consider all information which was considered by the Office in a parent application. MPEP §609. Such information therefore is not listed herein unless it is desired that the information be printed on a patent issuing from the subject application.

Enclosed with this statement are the following:

- ✓ Form PTO-1449. The Examiner is requested to initial the form and return it to the undersigned in accordance with M.P.E.P. §609.
- ✓ A copy of each cited document as required by 37 C.F.R. §1.98. Copies are not submitted of documents previously submitted by the applicant in a parent application from which benefit under 35

U.S.C. §120 is claimed, 37 C.F.R. §1.98(d)(1), with an information disclosure statement submitted in the parent application which complies with the Sept. 8, 2000 or subsequent revision of 37 C.F.R. §1.98(a-c). If any of the cited/submitted documents is in a foreign language, a concise explanation of relevance is provided pursuant to 37 C.F.R. §1.98(a)(3)(i). For foreign language documents cited in a search report by a foreign patent office, the requirement for a concise explanation of relevance is satisfied by the submission herewith of an English language version of the search report. MPEP §609A(3). If a written English-language translation of a non-English language document, or portion thereof, is within the possession, custody or control of, or is readily available to any individual designated in §1.56(c), a copy of the translation accompanies this statement, 37 C.F.R. §1.98(a)(3)(ii), and satisfies the requirement for a concise explanation of relevance, MPEP §609A(3).

PTA Statement under 37 C.F.R. §1.704(d). Each item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart application and this communication was not received by any individual designated in §1.56(c) more than thirty days prior to the filing of the information disclosure statement.

This statement should be considered because:

☒ **37 C.F.R. §1.97(b).** This statement qualifies under 37 C.F.R. §1.97, subsection (b) because:

- (1) It is being filed within three months of the filing date of an application other than a continued prosecution application under § 1.53(d);
-- OR --
- (2) It is being filed within 3 months of entry of a national stage;
-- OR --
- (3) It is being filed before the mailing date of the first Office Action on the merits,
-- OR --
- (4) It is being filed before the mailing date of the first Office Action after the filing of a Request for Continued Examination under 37 C.F.R. §1.114.

☐ **37 C.F.R. §1.97(c).** Although it may not qualify under subsection (b), this statement qualifies under 37 C.F.R. §1.97, subsection (c) because:

- (1) It is being filed before the mailing date of a FINAL office action, a Notice of Allowance, or an action that otherwise closes prosecution in the subject application, whichever occurs first.

-- AND (check at least one of the following) --

- ☐ (1) It is accompanied by a STATEMENT as set forth in 37 C.F.R. §1.97(e).
-- OR --
- ☐ (2) It is accompanied by the \$180 fee set forth in 37 C.F.R. §1.17(p).

— 37 C.F.R. §1.97(d). Although it may not qualify under subsection (b) or (c), this statement qualifies under 37 C.F.R. §1.97, subsection (d) because:

- (1) It is being filed on or before payment of the issue fee;
— AND —
- (2) It is accompanied by a STATEMENT as set forth in 37 C.F.R. §1.97(e);
— AND —
- (3) It is accompanied by the \$180 fee set forth in 37 C.F.R. §1.17(p).

✓ **Fee Authorization.** The Commissioner is hereby authorized to charge underpayment of any additional fees or credit any overpayment associated with this communication to Deposit Account No. 06-1325.

Respectfully submitted,

FLIESLER DUBB MEYER & LOVEJOY LLP

Date: 5/15/02

By: Thomas A. Ward
Thomas A. Ward, Reg. 35,732

FLIESLER DUBB MEYER & LOVEJOY LLP
Four Embarcadero Center, Fourth Floor
San Francisco, California 94111-4156
Telephone (415) 362-3800